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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,524	06/01/2001	William Hoath	01261	3311

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EXAMINER

LONSBERRY, HUNTER B

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/872,524

Applicant(s)

HOATH, WILLIAM

Examiner

Hunter B. Lonsberry

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,018,768 to Ullman in view of U.S. Patent 6,490,727 to Nazarathy.

Regarding claim 1, Ullman discloses in figures 1-2 and 5 a system for the transmission of digital data, said system comprising:

Transmission of digital data (column 9, lines 38-56, a single tuner embodiment in which the URLs are transmitted via Internet connection 20, digital data may be webpages column 4, lines 41-54) to a plurality of receiver locations, each receiver including a broadcast data receiver for processing of the data and generation of the video, audio and or auxiliary data (column 5, lines 31-44) each receiver including a modem which accesses an Internet connection 20 via a high speed line, RF, conventional modem, or two way cable (column 5, lines 46-58),

At the broadcast location, a URL decoder 24 strips the URL information from line 21 or from a separate data channel delivers them to an Internet server 20 for simultaneous transmission via Internet 20 to the user site with the broadcast program, the transcoding step being preformed prior to transmission (column 5, lines 3-30, line 58-column 6, line 4), when the data is received it is received and processed by the modem in conjunction with the processor without requiring the receiver to have an out of band tuner (column 5, line 45-column 6, line 4, column 8, lines 41-51, the URLs are received via a modem over a separate interface while the video may be received over conventional broad cast or cable transmission, thus not requiring an out of band tuner to access the URLs and webpages).

While Ullman does disclose accessing the Internet 20 via a high-speed line, RF, conventional modem or two way cable, Ullman fails to teach the use of a DOCSIS compatible cable modem.

Nazarathy discloses a cable system in which DOCSIS is utilized for communications between a receiver and a headend (column 15, line 47-column 16, line 30), thus negating the need for an analog return path for a cable modem, reducing costs, and providing a low cost interface for each user.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Ullman to utilize the DOCSIS enabled cable modem system of Nazarathy for the advantages of negating the need for an analog return path for a cable modem, reducing costs, and providing a low cost interface for each user.

Regarding claim 3, Ullman teaches transcoding out of band data into a format accessible via the Internet.

Ullman fails to teach transcoding data into an Ethernet format and reception of Ethernet formatted data via a receiver.

Nazarathy discloses utilizing DOCSIS encoded data encapsulated within an Ethernet frame (column 15, lines 47-64, column 13, lines 50-58), thus providing a low cost and easy to implement interface (column 14, line 65-column 15, line 12).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Ullman to utilize the Ethernet interface as taught by Nazarathy for the advantages of providing an easy to implement and low cost interface.

Regarding claim 4, Ullman teaches requesting webpages from the web server via the Internet 20 connection (column 8, lines 41-51). Ullman inherently includes a transcoder at the headend, as conversion is required in order for the URL requests transmitted by the conventional modem to be formatted into IP data capable of being understood by a web server.

Ullman fails to teach the use of Ethernet data transmitted by a receiver.

Nazarathy discloses bidirectional Ethernet communications between a receiver and headend (column 14, line 65-column 15, line 12, column 15, lines 47-64, column 13, lines 50-58) thus providing a low cost and easy to implement interface (column 14, line 65-column 15, line 12).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Ullman to utilize the Ethernet interface as taught by Nazarathy for the advantages of providing an easy to implement and low cost interface.

The combination of Ullman and Nazarathy inherently includes

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 571-272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HBL



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